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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,925	07/10/2000	Carlos Antonio Durate Cano	P-13 Div II	9520
28752	7590	04/13/2004	EXAMINER	
LACKENBACH SIEGEL, LLP LACKENBACH SIEGEL BUILDING 1 CHASE ROAD SCARSDALE, NY 10583			DEVI, SARVAMANGALA J N	
			ART UNIT	PAPER NUMBER
			1645	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/612,925

**Applicant(s)**

DURATE CANO ET AL.

**Examiner**

S. Devi, Ph.D.

**Art Unit**

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowable.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

**ATTACHMENT TO *Ex parte QUAYLE* ACTION**

- 1) This application is in condition for allowance except for the following formal matters:

The specification recites some sequences that are identified by the same SEQ ID numbers, and some of the same SEQ ID numbers that have different structures or different composition. For example, SEQ ID NO: 15 recited in claim 11 appears to be identical in composition to SEQ ID NO: 2, whereas SEQ ID NO: 17 recited in the lower half of page 17 of the specification filed 03/26/04 is non-identical in its structural composition with the SEQ ID NO: 17 recited on page 7 of the raw Sequence Listing filed 03/26/04.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

**After-final Amendment**

- 2) Acknowledgment is made of Applicants' after-final amendment filed 03/26/04 in response to the final Office Action mailed 10/23/03 which has been entered. Applicants have filed an amended specification and a substitute raw sequence listing.

**Status of Claims**

- 3) Claim 11 has been amended via the amendment filed 03/26/04.  
Claim 11 is pending and is under examination.

**Objection(s) Withdrawn**

- 4) The objection to the specification made in paragraph 7(i) of the Office Action mailed 03/26/03 and maintained in paragraph 8 of the Office Action mailed 10/23/03 is withdrawn in light of Applicants' amendments.
- 5) The objection to the specification made in paragraph 9 of the Office Action mailed 10/23/03 is withdrawn in light of Applicants' amendment to the specification.

**Rejection(s) Withdrawn**

- 6) The rejection of claim 11 made in paragraph 9 of the Office Action mailed 03/26/03 (paper no. 18) under 35 U.S.C. § 112, first paragraph, as failing to provide an adequate written description with regard to the deposit issue, is withdrawn in light of Applicants' amendments.
- 7) The rejection of claim 11 made in paragraph 10(d) of the Office Action mailed 03/26/03 (paper no. 18) under 35 U.S.C. § 112, second paragraph, as being indefinite, is withdrawn in light of Applicants' amendment to the claim.

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**Remarks**

- 8) Claim 11 is allowable.
- 9) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.
- 10) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

April, 2004

  
**S. DEVI, PH.D.**  
**PRIMARY EXAMINER**